

COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

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DATE: October 6, 2016

TO: Subcommittee on Educational Standards

FROM: George C. Leal, Director for Educational Standards

SUBJECT: **University of Silicon Valley School of Law -
Notice of Non-Compliance or Termination**

BACKGROUND

The University of Silicon Valley School of Law (USVSOL) is a registered, unaccredited fixed-facility law school located in Fremont, California. It is owned by Sherry Ross in her personal capacity as a sole proprietorship; she acts as the law school's Dean, administrator and registrar. Ms. Ross earned a Juris Doctor degree from a California-Accredited law school, Lincoln Law School of San Jose, but is not an attorney.

The law school was founded by Dean Ross in 2004. At that time, it was given its degree-granting by the former Bureau of Private Postsecondary and Vocation Education (BPPVE) and was registered by the Committee of Bar Examiners (Committee). With the change in California law that affected all unaccredited law schools, regulatory oversight of USVSOL was transferred to the Committee in 2008. As such, USVSOL became subject to requirements of the *Unaccredited Law School Rules* (Rules) and the *Guidelines for Unaccredited Law School Rules* (Rules).

Central to the Committee's ability to oversee and regulate all unaccredited law schools under its jurisdiction is each law school's obligation to "demonstrate its on-going compliance with *Unaccredited Law School Rules* . . ." Guideline 1.2. Key to being found compliant with the Rules and Guidelines is a law school's willingness and ability to be inspected by the Committee. As required by Rule 4.244(A), "a registered law school must be inspected every five years . . . to asses compliance with these rules."

Given this express requirement, and despite the repeated efforts by staff to inspect USVSOL, to date, the law school has never been formally inspected on behalf of the Committee. Beginning in 2012, staff began to contact Dean Ross with requests that a formal, periodic inspection of USVSOL be scheduled and conducted before the end of the year. At that time, Dean Ross informed staff that she was suffering from a health issue that would prevent her from preparing for and then participating in an inspection for several months. As a result, it was agreed to postpone the inspection until mid-2013.

In June of 2013, staff made an informal visit to the law school to confer with Dean Ross in an effort to discuss her efforts to prepare for a formal inspection. During that visit, while the school was then open and appeared to be operating, Dean Ross confirmed that her health issue had become significantly worse and that she had decided she would not enroll any students for the upcoming fall semester. In light of that fact, it was agreed that the periodic inspection would be postponed for the foreseeable future.

From the Annual Compliance Report submitted by USVSOL in November 2013, it appears that the law school had no students enrolled at any time during that year. From the law school's report, it appears that all of its students (a total of six) withdrew from the law school due to their failure to pass the First-Year Law Students' Examination. For the next two years, through 2015, staff and Dean Ross communicated infrequently to discuss whether her health would permit an inspection. Throughout this time, she confirmed that it would not and, as a result, the law school remained closed.

Near the end of 2015, Dean Ross was able to confirm that she was almost fully recovered and that an inspection sometime during the spring or summer of 2016 was possible. Given this development, emails were exchanged in an attempt to confirm a specific date for the inspection. Dates in February and April were discussed and, in fact, agreed to but were cancelled by Dean Ross for a variety of personal reasons. Due to the significant delay and that the school, by then, had been closed for over two and a half years, staff suggested to Dean Ross that she voluntarily agree to terminate the registration of USVSOL. She refused to consider all such requests and, instead, inquired about transforming the law school into an online, correspondence law school or whether the law school could be merged with or sold to another law school that was operating.

Finally, after additional email correspondence, the date of June 22, 2016 was confirmed by Dean Ross for the inspection. However, as before, Dean Ross contacted staff by email to cancel the inspection, again citing health issues and her concern that the law school would be found noncompliant and therefore subject to termination. In response, staff cancelled the inspection with the admonition that a recommendation to the Committee would be made for it to terminate the registration of USVSOL.

DISCUSSION

The events described above represent a unique and unfortunate set of circumstances that have resulted in the fact that despite being required to operate under the authority of the Rules and Guidelines, this law school has been unwilling or unable to confirm its compliance with any of the registration standards through a periodic inspection. As noted, the primary reason is due to the health concerns of Dean Ross. While unfortunate, that fact alone should no longer be found sufficient to allow the law school to remain registered and, as such, allow it to be able to give the appearance that it is an open and functioning entity. While there is no evidence that Dean Ross has admitted any students in over four years, since sometime in 2012, there is no justification for allowing the school to remain registered, if and when she chooses to reopen.

A further compelling reason is found in the undisputed fact that, even if an inspection had taken place this past June, it is beyond any reasonable dispute that it would have been found noncompliant with most, if not all of the academic and operational requirements of a compliantly operating registered law school. With no students and offering no classes, it would appear reasonable to assume that USVSOL has no faculty, has only an out-of-date and therefore noncompliant library and written materials, such as a catalog and student handbook that are also dated and noncompliant.

Based upon each of these presumed issues of its noncompliance, the long-standing and repeated refusal to allow an inspection to take place supports a finding that (as required by Guideline 1.7) the law school cannot “demonstrate its on-going compliance. As such, the process for withdrawing the schools’ registration should commence.

The Rules say with regard to withdrawal:

Chapter 4. Withdrawal of Registration

Rule 4.260 Notice of Noncompliance

If the Committee believes that a registered law school is not in full compliance with these rules, the Committee will provide the law school with a written Notice of Noncompliance that states the reasons for its belief.

Rule 4.261 Response to Notice of Noncompliance

Within fifteen days of receiving a Notice of Noncompliance, a law school must file a response demonstrating that it is in compliance or is taking steps to achieve compliance. The response must be submitted with the fee set forth in the Unaccredited Law School Fees (Schedule of Charges and Deadlines).

RECOMMENDATION

This is a unique situation, which may permit the Committee to consider taking alternative action than is provided in the Rules for withdrawal of a school’s registration. If after discussion of the matter, there is a consensus that the registration of USVSOL can be terminated, effective the date of the Committee’s action, doing so would be recommended. Otherwise, it is recommended that the process for withdrawal of the school’s registration be initiated in accordance with the provisions of Rule 4.260 of the Rules.

PROPOSED MOTION

Pending.